



02 APR 2007

Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, NY 11791

In re Application of	:	
Marrero Miragaya et al.	:	
Application No.: 10/540,296	:	DECISION
PCT No.: PCT/CU03/00020	:	
Int. Filing Date: 22 December 2003	:	ON
Priority Date: 27 December 2002	:	
Attorney Docket No.: 976-28 PCT/US	:	PETITION
For: Formulations For The Rectal Administration	:	
Of Thrombolytically-Active Agents	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 12 March 2007.

DISCUSSION

In a Decision mailed on 08 January 2007, the petition under 37 CFR 1.47(a) filed on 20 January 2006 was dismissed without prejudice because, regarding requirement (2),

The petition states that the "pertinent facts are recounted in the accompanying 'Declaration' signed by Dr. Sonia Gonzalez Blanco." In her Declaration, Dr. Gonzalez Blanco (hereinafter, "Blanco") states that she sent a letter to Milesa Yeni Sarmiento Mayea (hereinafter, "Mayea") at her last known address, requesting her appearance at the Patents Department of the Genetic Engineering and Biotechnology Center to execute a declaration, but that the letter subsequently was returned by the Cuban Postal Service with markings indicating that Ms. Mayea had "Moved, Left No Forwarding Address." Dr. Blanco further states that she conducted an internet search "using the Google search engine" to perform a search "in English" for "Milesa Yeni Sarmiento," but that the search "did not locate Milesa Yeni Sarmiento."

It is not clear from the record whether any further efforts were made to locate Ms. Mayea and, if not, why not. For instance, was a search performed using the "Mayea" portion of her name? Was a search performed using Spanish as the operative language, or using a different search engine? Was a telephone directory search performed? Were inquiries made of any neighbors, known associates or appropriate civil authorities who may have been aware of Ms. Mayea's whereabouts? Were any electronic communications (e.g., telephone calls or e-mails) attempted? In the absence of a complete showing of what efforts were undertaken to ascertain the whereabouts of Ms. Mayea, it would not be appropriate to conclude that she "could not be found or reached after diligent effort" within the meaning of 37 CFR 1.47(a).

and

Regarding requirement (4), the petition is accompanied by a declaration document signed by joint inventors Marrero Miragaya, Aguilera Barreto, Gonzalez Chavez,

Martinez Diaz, Torrez Cabrera, Cosme Diaz, Hernandez Marrero and Tamargo Santos on behalf of themselves and non-signing joint inventor Sarmiento Mayea. However, further inspection reveals that the published international application nominates "Cosme Diaz, Carelia" as an inventor, whereas the declaration nominates "Karelia Cosme Diaz." The record appears to include no explanation of this discrepancy. In the absence of a suitable explanation and/or showing concerning this discrepancy, it would be inappropriate to conclude that the declaration filed on 20 January 2006 satisfies requirement (4). See MPEP 605.04(b) and 201.03(b).

Regarding **requirement (2)**, petitioner now presents a "Declaration" signed by Dr. Sonia Gonzáles Blanco, describing her renewed efforts to locate the whereabouts of Miliesa Yeni Sarmiento Mayea, along with copies of internet searches she performed and along with a copy of the relevant page from the Ciudad de la Habana telephone directory. This showing satisfies requirement (2).

Regarding **requirement (4)**, petitioner states that "The declaration contains a typographical error in the spelling of the joint inventor, Carelia Cosme Diaz. Ms. Diaz has corrected the spelling of her name in the declaration, and has initialed and dated the change. Enclosed is the corrected declaration executed by each 37 C.F.R. 1.47(a) applicant on his or her own behalf and on behalf of the non-signing inventor." In view of this explanation of the discrepancy in the spelling of the inventor's name, and pursuant to the practice described at MPEP 605.04(b), requirement (4) has now been satisfied.


DECISION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at her last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **20 January 2006**.


George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459



OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of a joint inventor. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Milesa Yeni SARMIENTO MAYEA) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/CU03/00020 and was filed on December 22, 2003 in the names of Maria Acelia MARRERO MIRAGAYA, Ana AGUILERA BARRETO, Lisette GONZALEZ CHAVEZ, Eduardo MARTINEZ DIAZ, Beatriz TORREZ CABRERA, Carelia COSME DIAZ, Milesa Yeni SARMIENTO MAYEA, Luciano HERNANDEZ MARRERO and Beatriz TAMARGO SANTOS for the invention entitled FORMULATIONS FOR THE RECTAL ADMINISTRATION OF THROMBOLYTICALLY-ACTIVE AGENTS. The national stage application number is 10/540,296 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of January 20, 2006.